



Entered on Docket
March 11, 2009

A handwritten signature in dark ink, appearing to read "Linda B. Riegler".

Hon. Linda B. Riegler
United States Bankruptcy Judge

LEWIS AND ROCA LLP

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Attorneys for USACM Liquidating Trust

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

In re:

USA COMMERCIAL MORTGAGE COMPANY,

USA CAPITAL REALTY ADVISORS, LLC,¹

USA CAPITAL DIVERSIFIED TRUST DEED
FUND, LLC,

USA CAPITAL FIRST TRUST DEED FUND, LLC,²

USA SECURITIES, LLC,³

Debtors.

Affects:

- ☐ All Debtors
- ☒ USA Commercial Mortgage Company
- ☐ USA Capital Realty Advisors, LLC
- ☐ USA Capital Diversified Trust Deed Fund, LLC
- ☐ USA Capital First Trust Deed Fund, LLC
- ☐ USA Securities, LLC

Case No. BK-S-06-10725-LBR
Case No. BK-S-06-10726-LBR¹
Case No. BK-S-06-10727-LBR
Case No. BK-S-06-10728-LBR²
Case No. BK-S-06-10729-LBR³

CHAPTER 11

Jointly Administered Under
Case No. BK-S-06-10725 LBR

**ORDER SUSTAINING EIGHTH
OMNIBUS OBJECTION OF USACM
LIQUIDATING TRUST TO DUPLICATE
PROOFS OF CLAIM**

Hearing Date: February 20, 2009
Hearing Time: 9:30 a.m.

¹ This bankruptcy case was closed on September 23, 2008.

² This bankruptcy case was closed on October 12, 2007.

³ This bankruptcy case was closed on December 21, 2007.

1 The Court having considered the "Eighth Omnibus Objection of USACM
2 Liquidating Trust to Duplicate Proofs of Claim; and Certificate of Service" [Docket No.
3 6742] (the "Objection"); the Court having heard the objection in open court on February
4 20, 2009; appropriate notice of the Objection having been given; one response to the
5 Objection having been filed by Marcia Knox, which confirmed that her claims are
6 duplicate and Claim No. 10725-01905 should survive the Objection; and good cause
7 appearing:

8 **IT IS HEREBY ORDERED:**

- 9 1. The Objection is sustained;
- 10 2. The duplicate claims listed on Exhibit A to this Order are disallowed in their
11 entirety; and
- 12 3. The surviving claims listed on Exhibit A to this Order are not affected by
13 this Order, but may be subject to further objection.

14
15 PREPARED AND RESPECTFULLY SUBMITTED BY:

16 **LEWIS AND ROCA LLP**

17 By /s/ John Hinderaker (018024)
18 Rob Charles
19 John Hinderaker (Pro hac vice)
20 3993 Howard Hughes Parkway, Ste. 600
21 Las Vegas, Nevada 89169-5996
22 Telephone: (520) 629-4427
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24 *Attorneys for USACM Liquidating Trust*

25 APPROVED/DISAPPROVED

26 By: August Landis
Assistant United States Trustee

LEWIS
AND
ROCA
LLP
LAWYERS

1 APPROVED/DISAPPROVED

2
3 By

Marcia Knox
Marcia Knox

Trustee for the Marcia J. Knox Living Trust dated 8/16/04

1 In accordance with Local Rule 9021, the undersigned certifies:

- 2 ☐ The Court waived the requirements of LR 9021.
- 3 ☐ No parties appeared or filed written objections, and there is no trustee appointed
- 4 in this case.
- 5 ☒ I have delivered a copy of this proposed order to all counsel who appeared at the
- 6 hearing, any unrepresented parties who appeared at the hearing, and any trustee
- 7 appointed in this case, and each has approved or disapproved the order, or failed
- to respond, as indicated below (list each party and whether the party has
- approved, disapproved, or failed to respond to the document):

| | |
|--|---|
| U.S. Trustee: | |
| <input type="checkbox"/> approved the form of this order | <input type="checkbox"/> disapproved the form of this order |
| <input type="checkbox"/> waived the right to review the order and/or | <input checked="" type="checkbox"/> failed to respond to the document |
| Other Party: Marcia Knox | |
| <input checked="" type="checkbox"/> approved the form of this order | <input type="checkbox"/> disapproved the form of this order |
| <input type="checkbox"/> waived the right to review the order and/or | <input type="checkbox"/> failed to respond to the document |

14 ###

15 Submitted by:

16 **LEWIS AND ROCA LLP**

17 By: /s/ JH (#018024)

18 Rob Charles

19 John Hinderaker

20 *Attorneys for USACM Liquidating Trust*

EXHIBIT A

USA – DUPLICATE CLAIMS TABLE (8)

| <u>Claimant's Name and Address</u> | <u>Duplicate Claim #</u> | <u>Duplicate Claim Amount</u> | <u>Basis for Objection</u> | <u>Surviving Claim #</u> | <u>Surviving Claim Amount</u> |
|--|---------------------------------|--------------------------------------|--|---------------------------------|--------------------------------------|
| Cibb Inc Pension Plan Ronald A Johnson Ttee 50 Snider Way Sparks, NV 89431 | 10725-02129 | \$405,600.00 | The claim is based on investment in Roam Development Group, J Jireh's Corporation, Eagle Meadows Development, and Palm Harbor One and is a duplicate of claim #10725-02261. This claim was erroneously filed twice. The USACM Liquidating Trust requests claim #10725-02129 be disallowed in its entirety. | 10725-02261 | \$405,600.00 |
| Graham, Nanci 240 Upper Terrace #3 San Francisco, CA 94117-4516 | 10725-02183 | \$15,823.13 | The claim is based on investment in SVRB \$4,500,000 and is a duplicate of claim #10725-02370. This claim was erroneously filed twice. The USACM Liquidating Trust requests claim #10725-02183 be disallowed in its entirety. | 10725-02370 | \$15,823.13 |
| Osvaldo Zunino Living Trust Dated 12/18/98 c/o Osvaldo Zunino Trustee 3575 Tioga Way Las Vegas, NV 89109-3340 | 10725-02548 | \$620,000.00 | The claim is a duplicate of claim #10725-02550. This claim was erroneously filed twice. The USACM Liquidating Trust requests claim #10725-02548 be disallowed in its entirety. | 10725-02550 | \$620,000.00 |

| <u>Claimant's Name and Address</u> | <u>Duplicate Claim #</u> | <u>Duplicate Claim Amount</u> | <u>Basis for Objection</u> | <u>Surviving Claim #</u> | <u>Surviving Claim Amount</u> |
|--|--|--|---|--------------------------|-------------------------------|
| Deller, Ross 1469 Harmony Hill Henderson, NV 89014 | 10725-00042 | \$120,000.00 | The claim is a duplicate of claim #10725-02484. This claim was erroneously filed twice. The USACM Liquidating Trust requests claim #10725-00042 be disallowed in its entirety. | 10725-02484 | \$200,000.00 |
| Nevada Department of Taxation Bankruptcy Section 555 E Washington Ave Ste 1300 Las Vegas, NV 89101-1041 | 10725-00056 | \$18,540.30 | The claim is based on taxes not paid and is a duplicate of claim #10725-00134. This claim was erroneously filed twice. The USACM Liquidating Trust requests claim #10725-00056 be disallowed in its entirety. | 10725-00134 | \$24,596.42 |
| Marcia J Knox Living Trust Dtd 8/16/04 c/o Marcia J Knox Trustee 1885 Vintners Pl Reno, NV 89509-8334 | 10725-00766 10725-00797 10725-01029 10725-01037 | \$1,527.68 \$46,095.47 \$1,527.68 \$46,095.47 | The claims are based on investment in Bay Pompano Beach and are duplicates of claim #10725-01905. The USACM Liquidating Trust requests claim #10725-00766, 10725-00797, 10725-01029, and 10725-01037 be disallowed in their entirety. | 10725-01905 | \$75,539.24 |
| Joyce E Smith Trust Dated 11/3/99 c/o Joyce E. Smith Trustee 3080 Red Springs Dr Las Vegas, NV 89135-1548 | 10725-00908 | | The claim is based on investment in Barusa and is a duplicate of claim #10725-00909. This claim was erroneously filed twice. The USACM Liquidating Trust requests claim #10725-00908 be disallowed in its entirety. | 10725-00909 | \$53,791.67 |

| <u>Claimant's Name and Address</u> | <u>Duplicate Claim #</u> | <u>Duplicate Claim Amount</u> | <u>Basis for Objection</u> | <u>Surviving Claim #</u> | <u>Surviving Claim Amount</u> |
|---|--------------------------|-------------------------------|---|--------------------------|-------------------------------|
| Rausch, Lawrence 10708 Brinkwood Ave Las Vegas, NV 89134-5245 | 10725-01223 | \$50,599.83 | The claim is based on investment in Marlton Square 2 nd and is a duplicate of claim #10725-02476. This claim was erroneously filed twice. The USACM Liquidating Trust requests claim #10725-01223 be disallowed in its entirety. | 10725-02476 | \$49,936.00 |
| Everett, Daniel L & Sandra M 921 Crystal Ct Foster City, CA 94404-3517 | 10725-01330 | \$1,164.97 | The claim is a duplicate of claim #10725-01387. This claim was erroneously filed twice. The USACM Liquidating Trust requests claim #10725-01330 be disallowed in its entirety. | 10725-01387 | \$50,000.00 |
| Winkler Family Trust Dated 3/13/86 c/o Rudolf Winkler & Carmel Winkler Trustees 10000 Rossbury Pl Los Angeles, CA 90064-4826 | 10725-01645 | \$1,210,635.98 | The claim is a duplicate of claim #10725-02279. This claim was erroneously filed twice. The USACM Liquidating Trust requests claim #10725-01645 be disallowed in its entirety. | 10725-02279 | \$605,317.99 |